

**TIFFANY & BOSCO**  
P.A.

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Attorneys for Movant

09-28683

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF ARIZONA**

IN RE:

Benny Leland Cotter and Judy Webster Cotter  
  
Debtors.

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CitiMortgage, Inc.

Movant,  
vs.

Benny Leland Cotter and Judy Webster Cotter,  
Debtors; U.S. Trustee-PHX, Trustee.

Respondents.

No. 2:09-bk-23475-SSC

Chapter 11

**OBJECTION TO CHAPTER 11 PLAN  
AND DISCLOSURE STATEMENT**

CitiMortgage, Inc., a secured creditor, by its attorneys, TIFFANY & BOSCO, P.A., hereby objects to the proposed Chapter 11 Plan and Disclosure Statement ("Plan") filed by the Debtors. This Objection is supported by the following Memorandum

...

1 of Points and Authorities.

2 Dated this 8th day of April, 2010.

3 Respectfully submitted,

4 TIFFANY & BOSCO, P.A.

5 By /s/ MSB #010167  
6 Mark S. Bosco  
7 Leonard J. McDonald  
8 Attorneys for Movant

9 **MEMORANDUM OF POINTS AND AUTHORITIES**

10 CitiMortgage, Inc., "Secured Creditor" files this objection to the proposed "Plan" of the Debtors.  
11 The "Plan" provides for an impermissible modification of CitiMortgage, Inc.'s lien interest on the real  
12 property commonly known as 2454 S Nielson St, Gilbert AZ 85296 and legally described as follows:

13 LOT 11, OF THE SPECTRUM AT VAL VISTA-PHASE 1, ACCORDING TO THE PLAT OF  
14 RECORD IN THE OFFICE FO THE COUNTY RECORDER OF MARICOPA COUNTY,  
15 ARIZONA, RECORDED IN BOOK 573 OF MAPS, PAGE 37.

16 Further, Secured Creditor objects to the proposed sale terms as provided in Debtors' "Plan" to the  
17 potential future sale of the property. In the instant, Debtors' cannot provide any escrow documents to  
18 assure Movant that the future sale of the property will provide a complete and full payoff of principal,  
19 interest, late charges, attorneys' fees and costs, and such other costs, including but not limited to, advances  
20 made by beneficiary for taxes and insurance, if applicable, good through the date the loan is paid off. Nor  
21 can the Debtors' provide evidence of the property value over a five year period. Currently, Secured  
22 Creditor is 100% secured and cannot agree in the present what the property status could be in the future.  
23 At such time as Debtors can provide Secured Creditor with documentation which indicates a full payoff of  
24 principal, interest, late charges, attorneys' fees and costs, and such other costs, including but not limited to,  
25 advances made by beneficiary for taxes and insurance, if applicable, good through the date the loan is paid  
26 off, Secured Creditor will re-evaluate their position at that time.

1 Because the proposed "Plan" attempts to modify Secured Creditor's claim without providing any  
2 legal or factual authority for such capricious treatment. Such modification is simply not supported by the  
3 Bankruptcy Code or the facts of this case.

4 WHEREFORE, secured creditor prays as follows:

5 (1) That the 11 Plan be denied.

6 (2) For such other relief as this Court deems proper.

7 Dated this 8th day of April, 2010.

8 Respectfully submitted,

9 TIFFANY & BOSCO, P.A.

10  
11 By /s/ MSB #010167  
12 Mark S. Bosco  
13 Leonard J. McDonald  
Attorneys for Movant

14 COPY of the foregoing mailed this  
Dated this 8th day of April, 2010 to:

15 Benny Leland Cotter and Judy Webster Cotter  
16 3834 E. Clovis Avenue  
Mesa, AZ 85206  
17 Debtors

18 William R. Richardson  
19 1745 South Alma School Rd. Suite 100  
Mesa, AZ 85210-3010  
20 Attorney for Debtors

21 U.S. Trustee-PHX  
22 230 North First Avenue Suite 204  
Phoenix, AZ 85003  
23 Trustee

24 America Servicing Company  
25 P.O. Box 10328  
Des Moines IA 50306  
26

1 Bank Of America  
BAC Home Loan Servicing  
2 P.O. Box 5170  
Simi Valley CA 93062

3 Bank Of America  
4 P.O. Box 15026  
Wilmington De 19850-5026

5 Chase Bank  
6 P.O. Box 15298  
7 Wilmington DE 19850

8 Citimortgage Inc.  
P.O. Box 9438  
9 Gaithersburg MD 20898

10 Emc Mortgage Corp  
Customer Service  
11 P.O. Box 293150  
12 Lewisville TX 75029

13 GMAC Mortgage  
P.O. Box 4622  
14 Waterloo IA 50704-4622

15 Home Depot  
16 P.O. Box 689100  
Des Moines IA 50368

17 Indymac Federal Bank  
18 P.O. Box 4045  
19 Kalamazoo MI 49003

20 Mor Furniture  
8996 Miramar Road, #300  
21 San Diego CA 92126

22 Ocwen Loan Servicing  
P.O. Box 785057  
23 Orlando FL 32878

24 Pinal County Treasurer  
25 P.O. Box 729  
26 Florence AZ85132

1 Sally Eselgroth  
2 3105 N. Salida Del Sol  
3 Chandler AZ 85224

4 US Bank Home Mortgage  
5 P.O. Box 20005  
6 Owensboro KY 42304

7 Wells Fargo Home Mortgage  
8 P.O. Box 10335  
9 Des Moines IA 50306

10 By: Nicole E. Harrison  
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